

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA, )  
                                  )  
Plaintiff                  )  
                                  )  
-VS-                          ) CR. No. 08-10386-PBS  
                                  ) Pages 1 - 24  
CHITRON ELECTRONICS, INC., et al )  
                                  )  
Defendants                  )

SCHEDULING CONFERENCE

BEFORE THE HONORABLE PATTI B. SARIS  
UNITED STATES DISTRICT JUDGE

United States District Court  
1 Courthouse Way, Courtroom 19  
Boston, Massachusetts  
August 24, 2009, 3:15 p.m.

LEE A. MARZILLI  
OFFICIAL COURT REPORTER  
United States District Court  
1 Courthouse Way, Room 3205  
Boston, MA 02210  
(617) 345-6787

## 1 A P P E A R A N C E S:

2  
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6 Alex Wu.7 WILLIAM J. CINTOLO, ESQ., Cosgrove, Eisenberg & Kiley,  
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known as Annie Wei.  
910 GEORGE C. McMAHON, ESQ., Law Offices of George C.  
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11 Eric Lee.  
1213 H. REED WITHERBY, ESQ., GARRICK COLE, ESQ., and  
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16 for the Defendant Chitron Electronics, Inc.  
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1 P R O C E E D I N G S

2 THE CLERK: The case of the United States V.

3 Chitron Electronics Company Limited, Criminal Action  
4 No. 08-10836, will now be heard before this Court. Will  
5 counsel please identify themselves for the record.

6 MR. CAPIN: Your Honor, good afternoon. John  
7 Capin on behalf of the government.

8 MR. WITHERBY: And I'm Reed Witherby, and I'm  
9 appearing for Shenzhen Chitron Electronics Company Limited  
10 under a special penance.

11 MR. COLE: And my name is Garrett Cole, your  
12 Honor. I'm with Mr. Witherby.

13 MR. STERN: Good afternoon, your Honor. Donald  
14 Stern. I'm here for the defendant Wu.

15 MR. JOHNSON: Good afternoon, your Honor. Paul  
16 Johnson representing Chitron Electronics, Inc., which is a  
17 Massachusetts corporation.

18 MR. HERMAN: Good afternoon, your Honor. My name  
19 is Tom Herman, and I'm representing defendant Shenzhen  
20 Chitron Electronics Company Limited.

21 THE COURT: So who's filed the motion to dismiss?

22 MR. WITHERBY: I have, your Honor.

23 THE COURT: So I don't know why the rest of you  
24 are here. So I don't know if you all want to be here. You  
25 haven't all filed something, right, the rest of you?

1 MR. STERN: No.

2 THE COURT: So why don't you give me a sense of  
3 what the case is about, when is it going to go to trial.

4 Apart from this one issue, it's a big case.

5 MR. CAPIN: It is a big case, your Honor, and it's  
6 getting bigger. We're still before Judge Collings.

7 THE COURT: When was it filed?

8 MR. CAPIN: The original indictment was filed in,  
9 I believe, at the very end of December, 2008. A superseding  
10 indictment was filed on April 16, the first superseding on  
11 April 16, 2009. We've had a series of additional  
12 conferences before Judge Collings. Hundreds of thousands of  
13 pages of documents, both electronically and in hard copy,  
14 have been provided. As all the defendants know, it is the  
15 government's intention to file a further superseding  
16 indictment. Our best expectation at this point, and some of  
17 this depends on approval from Washington, is sometime in the  
18 next couple of weeks, I would say two full weeks at most,  
19 more likely in the next two, three weeks. The case pending  
20 currently involves allegations that three individuals, an  
21 American corporation that goes by the name of Chitron and a  
22 Chinese corporation that goes by the name of Chitron in  
23 America -- I'm shorthanding this for ease --

24 THE COURT: Chitron, what did you just say,  
25 Chitron?

1 MR. CAPIN: Well, the corporations are Chitron  
2 Electronics, Inc., which is a U.S. company, and Chitron  
3 Electronics Company Limited, also known as Chi-Chuang --  
4 that's C-h-i-C-h-u-a-n-g -- Electronics Company Limited,  
5 which are both names for a company headquartered in Shenzhen  
6 Mainland China. The indictment currently charges three  
7 individuals, Mr. Alex Wu, Ms. Annie Wei, and Mr. Eric Lee,  
8 with violating both the Export Control Act --

9 THE COURT: Wu is in jail, right?

10 MR. CAPIN: Wu is being held, as is Mr. Lee.

11 THE COURT: And Lee is in jail. And where's Wei?

12 MR. CAPIN: Wei is released on conditions, your  
13 Honor.

14 MR. CINTOLO: She's released. She's out.

15 THE COURT: Is she American? Is she a citizen  
16 here?

17 MR. CINTOLO: No.

18 THE COURT: So she's here in this country?

19 MR. CINTOLO: Correct. She's here in this country  
20 legally.

21 THE COURT: Okay.

22 MR. CAPIN: So in very summary fashion, the  
23 indictment charges the illegal export of both defense  
24 articles and articles that are controlled by the Commerce  
25 Department, which maybe have a commercial or a military use.

1 It also charges the individuals with making false statements  
2 and conspiring to make false statements. And as we have  
3 discussed in open court, so I'm not revealing anything, a  
4 number of times, the next superseding indictment will have  
5 similar charges but a much greater volume, and we --

6 THE COURT: The same people or new people?

7 MR. CAPIN: The government anticipates adding no  
8 new defendants, so basically who's in the case now is who,  
9 from the government's perspective, will be in the case at  
10 trial.

11 THE COURT: So it's just additional charges?

12 MR. CAPIN: Just additional charges, correct.

13 THE COURT: And is it -- I mean, I don't know if  
14 this is public or not, so stop me, what is and what isn't,  
15 but is it stuff they already know about and you're just  
16 adding it to the indictment, or is it something that will  
17 extend the time to trial, new stuff? I'm talking only in  
18 terms of scheduling a trial. Is it going to be a whole new  
19 raft of information?

20 MR. CAPIN: There will be some new information,  
21 very little new information. The lion's share -- and by the  
22 lion's share, I mean something on the order of 99 percent or  
23 more -- of the documentation from which the evidence at  
24 trial will be culled has been provided and was provided long  
25 ago.

The complications of the case, and we've discussed it -- again, this is nothing new -- in open court, are that thousands of the documents are in Mandarin and have to be translated. Most of this evidence came in discovery --

THE COURT: Have you translated it for them?

MR. CAPIN: Yes. Translations will be provided pursuant to both the rules and any agreements between the parties, and we've discussed that also --

THE COURT: Are all these people only Chinese speakers?

MR. CAPIN: I believe -- I know Ms. Wei is bilingual.

THE COURT: So we'll need interpreters for the trial?

MR. CINTOLO: I don't anticipate it yet, but it may at some point in time, depending on how complicated the language gets. But she understands as long as it goes slowly. If it goes too fast, she has trouble.

THE COURT: So at least theoretically we have three individuals who might need three interpreters?

MR. CINTOLO: Correct.

THE COURT: Any witnesses who only speak Chinese or no?

MR. CAPIN: I don't expect that will be the case, your Honor.

1                   THE COURT: When are you going to get them the  
2 rest of the documents in English?

3                   MR. CAPIN: Well, they have the documents. What  
4 they're waiting for is the superseding indictment. And  
5 there have been a number of hurdles to get over, including  
6 the translation of certain Mandarin documents and the  
7 identification of exports that violated U.S. law among the  
8 literally thousands and thousands of exports that were  
9 exported by these companies, entities and these individuals  
10 over the ten or so year period that the conspiracy spans.  
11 So there really is very little more forthcoming.

12                  THE COURT: How long a trial is it?

13                  MR. CAPIN: I would imagine it would be at least a  
14 two- to four-week trial.

15                  THE COURT: Okay. And that's for the government's  
16 case?

17                  MR. CAPIN: Well, that's my expectation.

18                  THE COURT: And so for the defense case, do you  
19 have a sense? I'm thinking we should set up a trial date  
20 right now. Any idea?

21                  MR. STERN: There's a certain degree of  
22 frustration that we've all had from the defense side. Your  
23 Honor is going to hear a very substantive motion this  
24 afternoon which deals with the Chinese company. From the  
25 defendants' point of view, particularly those who are in

1 custody, the two defendants in custody, we've been sort of  
2 waiting for the superseding because there are any number of  
3 legal issues, discovery issues; but it didn't really seem to  
4 make sense to tee those up until we sort of knew what the  
5 whole case was about.

6 THE COURT: Well, with so many people, so many  
7 lawyers, if I don't get a trial date now, I won't get  
8 everyone in the room. So I'm sort of hoping to get a sneak  
9 preview, if you will, of the case, get a trial date, which  
10 would maybe -- I'm assuming, if he says it's a month, and  
11 that's for his case, with all these people cross-examining,  
12 and you may not all have consistent interests -- maybe you  
13 do, maybe you don't -- I've got to assume a two-month trial,  
14 right? Am I wrong? Six weeks, two months?

15 MR. STERN: I don't think you're wrong.

16 THE COURT: That's even with me hurrying as I tend  
17 to do, hurrying folks along, I think that's what we're  
18 talking about, right?

19 MR. CAPIN: I think that's realistic.

20 THE COURT: And we have people in jail. I just  
21 think we need to sort of -- I know I'll hear your very  
22 substantive motion in a minute -- like, get it going. When  
23 can you try the case? When can you get the documents to  
24 them and try the case?

25 MR. CAPIN: I suspect we could try the case any

1 time this fall.

2 THE COURT: When are you going to get them the  
3 documents, all the rest? Have you given them almost  
4 everything in English other than the stuff that's  
5 superseding?

6 MR. CAPIN: We produced everything as we received  
7 it. The source of most of the documents the defendants  
8 withheld, there were documents that were seized during a  
9 number of searches, both of the local premises and of the  
10 individual's residence. There were also documents that were  
11 seized on certain computers at those locations and from  
12 defendant Wu's laptop computer and his telephone as he  
13 entered the country in December. That was when the arrest  
14 occurred.

15 And part of why the government in a sense has been  
16 behind the eight ball on this is because we had this flow of  
17 information coming into our possession at the very end of  
18 last year. We're talking about 1.7 terabytes of data and  
19 something on the order of 120,000 to 140,000 pages of hard  
20 copy, so there's very little the defendants don't have.

21 THE COURT: Wait, wait. It may be Mr. Wu knows  
22 what it is, but maybe Ms. Wei doesn't. I don't know enough  
23 about the case. I just need to know, have you at this point  
24 turned over everything you need to with respect to the  
25 second superseding indictment?

1 MR. CAPIN: Absolutely.

2 THE COURT: All right, so all that's coming is the  
3 third wave -- I'm wrong -- first superseding with the second  
4 superseding indictment?

5 MR. CAPIN: Correct, and --

6 THE COURT: And how much is left?

7 MR. CAPIN: Very little, and I can't identify it  
8 because the charges aren't finalized, but it will be on the  
9 order of hundreds or thousands of pages as opposed to the  
10 hundreds of thousands of pages that we've already produced,  
11 so it will be very little information.

12 THE COURT: Thousands of pages?

13 MR. CAPIN: Well, I mean, I'm reticent to -- I'm  
14 reluctant to cab myself to a number. I'd be very surprised.

15 THE COURT: Well, give me a date when that can  
16 happen, assuming the indictment as you predict and the grand  
17 jury does give additional charges.

18 MR. CAPIN: Assuming the grand jury would return  
19 an indictment by, let's say, the middle of September, I  
20 would imagine within a week or two the defendants would have  
21 all the documents that they would need to prepare their  
22 case. The government would be prepared to try the case at  
23 just about any point thereafter. I mean, obviously we'd  
24 need -- you know, I suspect they would --

25 THE COURT: Well, what do you all want?

1 MR. STERN: Well, setting a trial date is a good  
2 idea, your Honor, but here's the problem: There's an  
3 enormous number of documents, the 1.7 terabytes. I don't  
4 know how many documents. It's just a lot of documents. So  
5 figuring out which of those the government thinks are  
6 important, which of those are in the government's mind  
7 evidence of criminal intent is -- we can't do that until  
8 they identify what those documents are.

15 MR. STERN: Well, there's another part of the  
16 documentation that we need, which were not documents that  
17 were in the possession of any of the defendants or any of  
18 the companies but are in the possession of the government,  
19 the Commerce Department, the Defense Department; and that to  
20 some extent, you know, is a preview really of --

24 MR. CAPIN: Well, I think Mr. Stern may be  
25 alluding to a different issue --

1                   THE COURT: What?

2                   MR. CAPIN: -- which hasn't been litigated yet  
3 before Judge Collings, but the defendants have requested  
4 certain documents; for example, documents underlying the  
5 State Department's determination that some of these things  
6 being exported are on what's called the U.S. Munitions List.  
7 And those as a matter of statutes are not subject to  
8 judicial review, and therefore in our view are not subject  
9 to discovery.

10                  THE COURT: Well, fine, this is all the  
11 back-and-forth, the ping-ponging, but I just need a trial  
12 date. So assuming for a minute, when can you file with  
13 Judge Collings your motion?

14                  MR. STERN: Well, within a week or ten days after  
15 we see the superseding.

16                  THE COURT: Can't you file it anyway essentially  
17 because I'm assuming most of the documents you know about  
18 now, right, because you've gotten most of it, right?

19                  MR. STERN: We've gotten -- well, there's only  
20 been a handful of documents the government has identified as  
21 relevant to the existing case. We have exchanged discovery  
22 letters on additional things that we say we need.

23                  THE COURT: So pick a date when you can all file  
24 whatever your motion to compel is. You view it as  
25 exculpatory, is that it?

1 MR. STERN: Yes, exactly, your Honor.

2 MR. WITHERBY: What date from the superseding  
3 indictment?

4 THE COURT: I'm happy to do it that way. Let's  
5 say within two weeks of the issuance of the superseding  
6 indictment? I think it's actually the second superseding?

7 MR. CAPIN: It will be the second superseding,  
8 your Honor.

9 THE COURT: So within two weeks. And then you,  
10 when can you -- I mean, it is a help to at least tentatively  
11 mark for them the key exhibits you're going to rely on so  
12 they can focus.

13 MR. CAPIN: Agreed, and I think that is exactly  
14 the rubric within which this should be viewed. What they're  
15 asking for is an exhibit list.

16 THE COURT: When you do a million-document dump,  
17 it just helps. People focus on --

18 MR. CAPIN: Well, I mean, it's not that  
19 complicated because, for example, I think just based on  
20 reading the second superseding indictment which  
21 identifies --

22 THE COURT: When can you tell them? I understand.  
23 When can you tell them what are the key documents you plan?  
24 And I'm not holding you to it. You can supplement.

25 MR. CAPIN: I think the answer is that when they

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1 see the second superseding indictment, it will identify  
2 specific parts that were exported, and documents relating to  
3 the export of those parts are already in their possession,  
4 so --

5 THE COURT: If there are a million documents, just  
6 show it to them, especially if they're coming out of the  
7 Chinese, and it's always complicated translating that stuff.  
8 So maybe what you can do is for each of the -- just sit down  
9 and confer and do little yellow stickies or something just  
10 on the key things that they should look at. And then,  
11 they're good lawyers, they're not going to stick with that,  
12 I'm assuming, they're going to go beyond it, but at least  
13 what you're focusing on, and then they can advise their  
14 clients. And if you want to supplement, you can, because at  
15 some point you're going to mark things as exhibits, right?  
16 I'm setting a trial date today, and I'm going to set that  
17 date.

18 MR. CAPIN: That's correct.

19 THE COURT: So assuming that you move to compel,  
20 you oppose, Collings rules, maybe you object, it comes to  
21 me, but, in any case, we're just going to move this forward.  
22 When can we try this? Do we want to try it all together?  
23 Is there going to be a motion to sever? Is everybody on the  
24 same page?

25 MR. CAPIN: The government is not going to move to

1 sever.

2 THE COURT: What?

3 MR. CAPIN: The government won't move to sever.

4 THE COURT: I know that, although maybe. I mean,  
5 I've got some people in jail and some people not. So, in  
6 other words, one could argue -- and we'll get to this in a  
7 minute -- that the mess of trying to pierce the corporate  
8 veil, if that's what it boils down to, is not something that  
9 we should bog this trial down with.

10 MR. CAPIN: Well, at this point no defendant has  
11 moved to sever. Second --

12 THE COURT: Is anyone planning to? Do you know  
13 yet? No? I guess not so far.

14 MR. CINTOLO: On behalf of Ms. Wei, no, we're not  
15 planning to sever.

16 THE COURT: All right.

17 MR. CAPIN: And, second, I think actually --

18 THE COURT: So how many defendants? One, two,  
19 three, four, five defendants?

20 MR. McMAHON: Your Honor, I represent the third  
21 defendant, Bo Li, but we're not moving to sever.

22 THE COURT: It's a huge trial, so there are  
23 essentially five defendants in this case, potentially, maybe  
24 four, but still a big trial. So do you want to do December?  
25 Is that too soon, too late? November? What do you want?

1                   MR. STERN: I think December would make some  
2 sense. I mean, we can try to shoot for November, but I  
3 suspect it would end up getting pushed into December.

4                   MR. CINTOLO: I hate trying in December, your  
5 Honor, with all the holidays.

6                   THE COURT: Well, it is true we have to jump over,  
7 we'd have to leapfrog over Christmas. I mean, so one  
8 possibility is -- Robert, can we do early November and then  
9 fit it in before Christmas or do it -- someone may have  
10 already grabbed that right-after-Christmas slot, and I hate  
11 to put it off and have people in jail into March. Do we  
12 have something the first week in November?

13                   (Discussion off the record between the Court and  
14 Clerk.)

15                   THE COURT: So we could do November 30 and then  
16 leapfrog over Christmas, or we could do -- what do we have  
17 right after Christmas?

18                   THE CLERK: Right after? We have --

19                   (Discussion off the record between the Court and  
20 Clerk.)

21                   THE COURT: January 4?

22                   MR. CAPIN: It's certainly fine by the government,  
23 your Honor.

24                   THE COURT: What do you want to do? I mean,  
25 really your client is in jail kind of thing. Do you want to

1 start with an earlier date?

2 MR. STERN: What was the other date, November 30?

3 MR. CINTOLO: The choices are November 30 or

4 January 4?

5 THE COURT: We can try and do it the end of  
6 October too, if you want it earlier. I'm just worried that,  
7 truthfully, with all these documents and the motions, it's  
8 just not realistic. When do you want? Your people are in  
9 jail. Pick a date.

10 MR. STERN: I pick November 30, if that's the  
11 choice you're saying between -- I think early October, it's  
12 going to end up slipping, given the other things. I just  
13 don't think it's realistic. Personally, I don't think it's  
14 going to stick. In October, I think that's probably --  
15 given that the government is not going to supersede until  
16 probably the middle of September.

17 THE COURT: November 30? And then if I need to --  
18 I'm away, I'm out of the country, so let me just say this,  
19 and we will not be sitting over Christmas week. And you  
20 can't get a jury that's willing to do that anyway, so the  
21 assumption will be we'll get some slippage on either side of  
22 Christmas week and then jump in again.

23 If you were betting people at this point, are at  
24 least -- let me turn to you at this point -- are at least  
25 some of them going to go to trial?

1 MR. CAPIN: My guess is, yes, your Honor.

2 THE COURT: So I'm going to count it as a real  
3 trial. I'm going to count on a four- to five-week trial  
4 anyway. Does that sound reasonable? Any motion to  
5 suppress, dispositive motions and the like?

6 MR. CINTOLO: There will be, once the superseding  
7 indictment comes down, your Honor.

8 THE COURT: Like what? A motion to suppress?

9 MR. CINTOLO: No, no motion to suppress. Motion  
10 to dismiss. There will be legal issues that I'm  
11 anticipating will result --

12 THE COURT: Like statute of limitations kind of  
13 legal issues?

14 MR. CINTOLO: No. Your Honor, in light of -- I  
15 don't know what it's going to say, and I don't want to play  
16 my hand at this particular point in time, but I think there  
17 will be some significant motions, a motion to dismiss. I'm  
18 not saying it will take forever to decide, but I will --

19 THE COURT: I know nothing about the case yet.

20 MR. CINTOLO: I understand.

21 THE COURT: I'm soon to learn. So when can you  
22 file your motions to dismiss, within two weeks after the  
23 indictment, superseding?

24 MR. CINTOLO: Yes.

25 THE COURT: Everybody will file within two weeks

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1 after the superseding, unless Judge Collings set some other  
2 schedule I don't know about.

3 MR. CINTOLO: If he has, I don't recall it, your  
4 Honor.

5 THE COURT: So is there anything else on a  
6 preliminary basis that I should talk about until we get to  
7 their motion to dismiss?

8 MR. CINTOLO: Just as a matter of clarification,  
9 because I heard your Honor, but did your Honor say that the  
10 government or did the government agree that what they would  
11 do is designate the documents, at least tell us what  
12 documents?

13 THE COURT: That's a good point to circle back to  
14 that. So when can you do that?

15 MR. CAPIN: For a November 30 trial date, is that  
16 what we're talking about?

17 THE COURT: Yes.

18 MR. CAPIN: I would say 30 days before trial,  
19 which in any white collar case I've done, I've never  
20 produced an exhibit list, which is what they're asking for,  
21 sooner than two or three weeks before trial, so I think  
22 30 days would be appropriate.

23 THE COURT: Well, why don't I do this.

24 MR. CAPIN: If your Honor would like, we will  
25 gladly agree to confer, and we've invited individually

1 counsel to confer on --

2 THE COURT: We're going to have you right now do a  
3 pretrial order before you leave here today that's going to  
4 back up to that date, so that you'll sign it, and we'll have  
5 a pretrial hearing and all that sort of thing. So I'm not  
6 really talking about a formal exhibit list. You're  
7 absolutely right, 30 days beforehand would be fine. I'm  
8 talking about -- and I could just order it -- just going  
9 through what are the key documents associated with the key  
10 charges, so they've got everything, hopefully exculpatory  
11 and the rest. But, I mean, if we're really talking millions  
12 of documents -- I know this has happened in other cases --  
13 just simply helping them through the documents.

14 MR. CAPIN: Well, as I said, the indictment will  
15 identify the exports at issue and the items at issue, so I  
16 think they can do it themselves; but if the Court is asking  
17 the government to provide some guidance, within three weeks  
18 of the issuance of the new indictment we can provide some  
19 guidance as to which documents prove that on a certain date  
20 a certain export went from X distributor to Waltham,  
21 Massachusetts, and ultimately on to China. So I guess I'm  
22 saying three weeks after the superseding issues.

23 THE COURT: So they'll sit down with you on an  
24 informal basis, not to be bound but just essentially to walk  
25 through to help you pore through what they view as, you

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1 know, almost like in a civil document production where you  
2 say, "This is in response to this document request, this is  
3 to that," and you can all sit down, and they'll try to walk  
4 you through it, not binding on them as an exhibit, but at  
5 least a way for you to start to organize the millions of  
6 documents that they're talking about.

7 MR. CINTOLO: Can I add one more practical  
8 question, your Honor? I'm assuming, because of the document  
9 intensity of this particular case, that they're probably  
10 going to use some sort of presentation software for the  
11 jury. Can they tell us as quickly as they possibly can what  
12 they're going to use so that we can coordinate that with  
13 them so that we both use the same system, so that they're --

14 THE COURT: I don't know enough about it. Can you  
15 tell them your software system?

16 MR. CAPIN: Not by name, but absolutely I think we  
17 can identify that. Obviously we all have an interest in  
18 making this as efficient for the jury and for the Court as  
19 possible.

20 THE COURT: And is it in Chinese?

21 MR. CINTOLO: No. It will be the summation or one  
22 of those documents where, your Honor, that they call it up  
23 and the jury gets to see it on the monitors, so that it's  
24 not a paper case, it's an electronics case. But in the last  
25 case I tried just a couple weeks ago, the government didn't

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1 identify it for us until, like, a week before trial, and it  
2 was too late for us to get our stuff on the system, and it  
3 just made it more difficult --

4 THE COURT: Which one did you just try?

5 MR. CINTOLO: Aggregate Industries.

6 THE COURT: Before Judge Stearns?

7 MR. CINTOLO: Yes.

8 THE COURT: Did it work well for a big document  
9 case?

10 MR. CINTOLO: It works well. It didn't work well  
11 in that courtroom, your Honor, because they were not wired.  
12 I did one before Judge Barbadoro in New Hampshire that  
13 worked very well. Using it totally electronic, it made it a  
14 lot easier. We were all on the same system, so anybody  
15 could call up any document at any time.

16 THE COURT: So we should work on that because I'm  
17 pretty high-tech, but we just did a huge case, a civil case  
18 involving witnesses from actually Hong Kong, Macau, Israel,  
19 Canada, all over the country, and we did it through some  
20 video conferencing. Now, that was civil, not criminal, and  
21 I understand there are some differences here, but it may be  
22 that there could be some agreement on it. Are there  
23 international witnesses? Do you have international  
24 witnesses?

25 MR. CINTOLO: Depending upon what the superseding

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1 indictment is will determine whether or not we have them.

2 THE COURT: I don't know if you're allowed to do  
3 that under the confrontational clause, but I've done it. I  
4 remember I had a case a while ago where this Saudi Arabian  
5 put a firecracker in his backpack and was suing somebody in  
6 Riyadh. I mean, it's not as good as having the person here,  
7 but it's just something worth thinking about.

8 MR. CAPIN: I've had good witnesses by video in  
9 other trials.

10 THE COURT: I think Judge Gertner's case, the  
11 antitrust case, I think that was criminal, right? And  
12 didn't they have witnesses coming in from Tokyo or  
13 something?

14 MR. CAPIN: I think that might have been civil,  
15 but I've done a criminal case in front of Judge Wolf where  
16 we had a pregnant woman in D.C. who appeared, because she  
17 couldn't travel, by video. I think the defendants would  
18 have to agree.

19 THE COURT: Yes, I think you'll have to agree, but  
20 it might help both sides.

21 MR. WITHERBY: If that was the Nippon case, that  
22 was a criminal case.

23 THE COURT: It was criminal? You did that?

24 MR. WITHERBY: No, but I've reviewed it.

25 (End of Scheduling Hearing.)

1 C E R T I F I C A T E

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3 UNITED STATES DISTRICT COURT )  
4 DISTRICT OF MASSACHUSETTS ) ss.  
5 CITY OF BOSTON )  
6

7 I, Lee A. Marzilli, Official Federal Court  
8 Reporter, do hereby certify that the foregoing transcript,  
9 Pages 1 through 24 inclusive, was recorded by me  
10 stenographically at the time and place aforesaid in Criminal  
11 Action No. 08-10386-PBS, United States of America V. Chitron  
12 Electronics Company Limited, et al, and thereafter by me  
13 reduced to typewriting and is a true and accurate record of  
14 the proceedings.

15 In witness whereof I have hereunto set my hand  
16 this 9th day of September, 2009.

17  
18  
19  
20  
21 /s/ Lee A. Marzilli

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LEE A. MARZILLI, CRR  
23 OFFICIAL COURT REPORTER  
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